UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,794	05/02/2001	Jackie L. Huffman	8830	4912

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EXAMINER
JARRETT, SCOTT L

ART UNIT	PAPER NUMBER
3623	

DATE MAILED: 09/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/847,794	HUFFMAN, JACKIE L.
	Examiner	Art Unit	
	Scott L. Jarrett	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>01 July 2005</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *   c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   This **Final** Office Action is responsive to Applicant's amendment filed July 1,

2005. Applicant's amendment amended claims 1-18. Currently claims 1-18 are

pending.

Response to Amendment

2.   Applicant's amendment filed on July 1, 2005 with respect to amended claims 1-

18 necessitated new ground(s) of rejection.

Response to Arguments

3.   Applicant's arguments with respect to claims 1-18 have been considered but are

moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Latimer et al., U.S. Patent No. 6,857,567 in view of Berkson, U.S. Patent No. 6,049,779

and further in view of Nashner, U.S. Patent No. 5,980429.

Regarding Claims 1 and 11 Latimer et al. teach a system and method for

providing performance feedback to a cashier (operator, clerk, salesperson, employee,

etc.) at a point-of-sale terminal (Column 1, Lines 52-63;) for the purpose of improving

the operator's scanning technique and effectiveness (productivity, performance,

efficiency, accuracy, etc.; Abstract; Column 1, Lines 52-63; Column 9, Lines 13-18).

More specifically Latimer et al. teach a system and method for providing

feedback to a cashier at a point-of-sale (POS) terminal comprising:

- measuring and displaying work session performance feedback directly to a

cashier (clerk, salesperson, counterperson, operator, etc.) during and after a work

session (i.e. real-time; Column 3, Lines 44-54; Column 6, Lines 51-63; Column 7, Lines

27-42; Figures 1-3, 10, Element 48; Figures 7-9, Element 20); and

- displaying to the cashier a performance report indicating the cashier's

measured performance at the end of the work session (Column 6, Lines 51-63; Figure

4).

Latimer et al. further teach that it is old and well known that "existing systems

may also include a monitoring system for measure the *scanning rate* of the operator."

(i.e. the tasks comprising the number of items scanned per unit time, measuring the

cashier's performance of work session tasks; Column 1, Lines 32-34).

Latimer et al. does not expressly teach displaying performance goals to the

cashier at the start and/or the end of a work session as claimed.

Berkson teaches setting employee performance goals and displaying

performance goals (targets, objectives, etc.) at the end of a work session, in an

analogous art of providing operator performance feedback, for the purpose of motivating

operators to meet performance goals (incentives; Abstract; Column 2, Lines 38-68;

Column 3, Lines 1-12).

Berkson teaches that the system and method for providing feedback to an

operator at a terminal (service terminal, computer, etc.) comprises:

- monitoring and measuring the operator's performance during a work session

(shift, time period; performance data collection system, performance evaluation

component; Column 2, Lines 43-45; Column 6, Lines 31-49; Figure 1, Element 26 as

shown below; Figure 2, Element 60);

- generating a performance report at the end of the work session comparing the

operator's measured performance with the performance goal ("At the completion of a

call by the ACD agent, the system automatically generates measurements of the two

monitored performance parameters.... and compares the performance measurements

to established performance parameter standards", Column 3, Lines 1-10 and 45-50;

Column 6, Lines 55-68; Column 9, Lines 35-40; Figure 2, Elements 60-62; Figure 3,

Elements 80-84); and

- rewarding operators that achieve targeted performance level(s) wherein after

receives the reward the operator is returned to the general application (system; Column

3, Lines 1-12, 5-68).

Berkson further teaches that the collection and reporting of operator performance

metrics as well as systems for motivating operators based on performance feedback,

including the display (at the employee's terminal) of an operator's current performance,

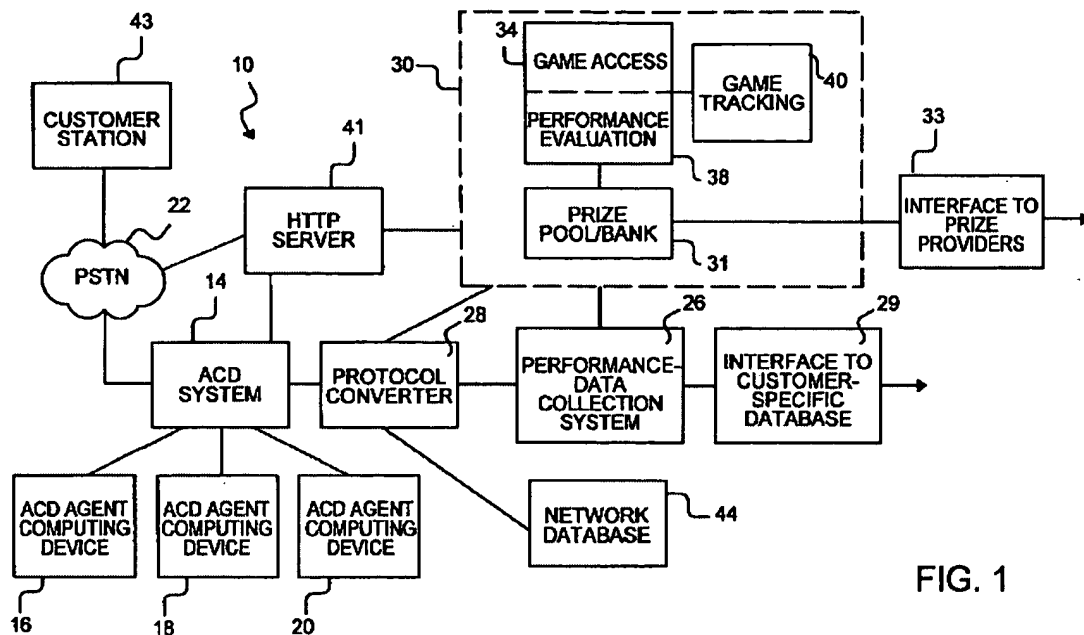is old and well known in the art (Column 1, Lines 21-68).

FIG. 1

It would have been obvious to one skilled in the art at the time of the invention

that the system and method for providing feedback to a cashier at a point-of-sale

terminal as taught by Latimer et al. would have benefited from setting employee

performance goals and displaying performance goals at the end of a work session in

view of the teachings of Berkson; the resultant system enabling retailers (merchants,

businesses) to enhance a cashier's overall performance by motivating the cashier to

achieve their performance target (desired, standard, goal) performance goal (Berkson:

Abstract).

Neither Berkson nor Latimer et al. teach displaying an operator's performance

goal at the start of the work session as claimed.

Nashner teaches displaying performance targets/goals **prior** (e.g. prescribed goal) to and during a training session (time period, session, shift, activity, etc.), in an analogous art of operator performance feedback, for the purpose of motivating users ("A well accepted principle in education is that a trainee striving to achieve a clearly identified, objective goal while receiving periodic objective feedback relative to his progress is the best motivated.", Column 3, Lines 32-35; Abstract; "information is provided to the subject regarding goals of the training and how well the goals are being achieved.", Column 4, Lines 12-27; Figure 1).

More generally Nashner teaches a performance monitoring and feedback system and method comprising:

- creating individualized performance monitoring (training) program to achieve a performance target (prescribed goal; Column 4, Lines 43-60; Column 5, Lines 40-44; Figure 1);

- setting, measuring and displaying individually set performance metrics (e.g. number of tasks performed compared to an expected individual or group benchmark, accuracy, etc.; Abstract; Column 4, Lines 12-60; Column 5, Lines 1-18); and

- setting performance targets (benchmark, goal, etc.) based on an individual's pervious/past performance or a group's historical performance (Abstract; Column 4, Lines 18-27).

It would have been obvious to one skilled in the art at the time of the invention that the system and method for providing feedback to a cashier at a point-of-sale

terminal, with its ability to set, monitor and display in real-time a cashier's ability to meet

performance goals, as taught by the combination of Latimer et al. and Berkson would

have benefited from displaying at the start of the work session the cashier's target

performance goal in view of the teachings of Nashner; the resultant system motivating

the cashier to achieve the work session's performance target by clearly identifying the

expected performance objective at the start of the session (Berkson: Abstract; Nashner:

Column 3, Lines 32-35; Column 4, Lines 12-27).

Regarding Claims 2-3 and 12-13 Latimer et al. teach a cashier performance

feedback system and method wherein the feedback (instructions, advice, teachings,

etc.) is tailored to each individual operator based on historical scanning information (i.e.

historical performance data for each individual cashier; Column 3, Lines 35-43).

Latimer et al. does not expressly teach the utilization of performance goals or

subsequently setting individual performance goals as claimed.

Berkson teaches the setting, measuring and displaying of measured performance

and performance goals for each operator ("The PDC can be programmed to monitor

target performance parameters, or metrics, that are associated with each ACD agent's

performance.", Column 6, Lines 36-38) in the analogous art of providing operator

feedback (operator performance), for the purpose of motivating operators to meet

performance goals (incentives; Abstract).

Berkson does not expressly teach that the operator performance goals are determined using historical performance data for each individual cashier as claimed.

Nashner teaches the creation an individualized performance-monitoring (training) programs wherein individual performance goals (benchmarks, prescribed goals, etc.) are individually set for each user (subject, operator, etc.; Column 4, Lines 43-60; Column 5, Lines 40-44; Figure 1) based on the individual's and/or group's historical performance (Abstract; Column 4, Lines 18-27), in an analogous art of performance monitoring and feedback for the purpose of determining the effectiveness of the individual training program (Column 4, Lines 18-27).

It would have been obvious to one skilled in the art at the time of the invention that the system and method for providing performance feedback to a cashier at a point-of-sale terminal as taught by combination of Latimer et al. and Berkson would have benefited from providing individualized (customer, personalized, unique, etc.) performance feedback to cashiers by setting individual performance goals for each individual cashier based on their personal historical performance in view of the teachings of Nashner; the resultant system enabling users of the system to determine the effectiveness of the individual performance program (training) efforts (i.e. the ability of the training program to enable users to reach their performance goals; Nashner: Column 4, Lines 18-27).

Regarding Claim 4 Latimer et al. teach a cashier performance feedback system and method wherein the system (point-of-sale terminal, device, computer, etc.) runs a general point-of-sale application (software, code, program, etc.; Column 1, Lines 36-45; Column 2, Lines 37-68; Column 3, Lines 1-34; Figures 1-3, 6 and 8-10) and the performance report is integrated (part of, connected to, add-on, etc.) into the general point-of-sale system (application, terminal, code, device, etc.; Column 3, Lines 26-33; Column 8, Lines 66-67; Column 9, Lines 1-13; Figure 2).

Regarding Claims 5 and 15 Latimer et al. does not expressly teach displaying cashier performance goal information as claimed.

Berkson teaches setting operator performance goals and displaying performance goals (targets, objectives, etc.) at the end of a work session, in an analogous art of providing operator feedback (operator performance), for the purpose of motivating operators to meet performance goals (incentives; Abstract).

It would have been obvious to one skilled in the art at the time of the invention that the system and method for providing feedback to a cashier at a point-of-sale terminal as taught by Latimer et al. would have benefited from setting operator performance goals and displaying performance goals at the end of a work session in view of the teachings of Berkson; the resultant system enabling retailers (merchants,

businesses) to enhance a cashier's overall performance by motivating the cashier to

achieve their expected performance target (Berkson: Abstract).

Neither Latimer et al. or Berkson teach displaying an cashier's performance goal

after the cashier logs into (start of work session) system as claimed.

Nashner teaches displaying performance targets/goals **prior** (e.g. prescribed

goal) to and during a training session (time period, session, shift, activity, etc.), in an

analogous art of operator performance feedback, for the purpose of motivating users to

obtain their performance goals (Column 3, Lines 32-35; Abstract; Column 4, Lines 12-

27; Figure 1).

It would have been obvious to one skilled in the art at the time of the invention

that the system and method for providing feedback to a cashier at a point-of-sale

terminal, with its ability to set, monitor and display in real-time a cashier's ability to meet

performance goals, as taught by the combination of Latimer et al. and Berkson would

have benefited from displaying at the start of the work session the cashier's target

performance goal in view of the teachings of Nashner; the resultant system enabling

retailers (merchants, businesses) to enhance an employee's overall performance by

motivating the employee to meet target performance displayed at the start of the

session (Berkson: Abstract; Nashner: Column 3, Lines 32-35; Column 4, Lines 12-27).

Nashner does not teach displaying an cashier's performance goal after the cashier logs into system as claimed.

Official notice is taken that operator sessions typically start with the operator logging onto the system enabling the system to recognize/authorize the operator to use the system.

It would have been obvious that the cashier performance feedback system and method as taught by the combination of Latimer et al., Berkson and Nashner, with its ability to display a cashier's performance goal at the start of a session, would have benefited from starting the session after the cashier logged onto the system in view of the teachings of official notice; the resultant system informing the cashier at the start of the work session (i.e. immediately following the cashier's logon) what their individual performance goal is for that work session thereby motivating the cashier to meet the set/prescribed goal (Nashner: Column 3, Lines 32-35; Column 4, Lines 12-27).

Regarding Claims 6-7 Latimer et al. does not expressly teach that the cashier performance feedback system (terminal, device, computer, etc.) returns to the general (main, default, etc.) point-of-sale system upon receiving input (button, keyword, mouse, etc.) from the cashier.

Official notice is taken that returning a user to their original task, activity, system or the like after receiving a response to a request for user input (i.e. pop-up window, dialog box, splash screen, etc.) is old and very well known.

It would have been obvious to one skilled in the art at the time of the invention that the system for providing performance feedback to a cashier, as taught by the combination of Latimer et al., Berkson and Nashner would have benefited from returning the cashier to the general point of sale application after displaying the cashier's performance goal in view of the teachings of official notice; the resultant system enabling the cashier to acknowledge the expected performance goal and start the work session.

Regarding Claims 8 and 16 Latimer et al. teach a cashier performance feedback system and method comprising the displaying, directly to the cashier, a performance report indicating the cashier's measure performance at the end of the work session (Column 6, Lines 51-63; Figure 4).

Latimer et al. does not expressly teach the setting of a performance goal or the subsequent displaying cashier performance goal information when the cashier logs out of the point-of-sale application (i.e. ends the work session).

Berkson teaches setting operator performance goals and displaying performance

goals (targets, objectives, etc.) at the end of a work session, in an analogous art of

providing operator feedback (operator performance), for the purpose of motivating

operators to meet performance goals as discussed above.

It would have been obvious to one skilled in the art at the time of the invention

that the system and method for providing feedback to a cashier at a point-of-sale

terminal as taught by Latimer et al. would have benefited from setting operator

performance goals and displaying performance goals at the end of a work session in

view of the teachings of Berkson; the resultant system enabling retailers (merchants,

businesses) to enhance an cashier's overall performance by motivating the cashier to

achieve their expected performance goal (Berkson: Abstract).

Berkson does not teach displaying a cashier's performance goal after the cashier

logs into system as claimed.

Official notice is taken that operator sessions typically end with the operator

logging out of the system thereby enabling the system to recognize that the operator

has completed their work session.

It would have been obvious that the cashier performance feedback system and

method as taught by the combination of Latimer et al., Berkson and Nashner, with its

ability to display a cashier's performance goal at the end of a session, would have

benefited from ending the session after the cashier logged out of the system in view of

the teachings of official notice; the resultant system informing the cashier at the end of

the work session how well they did during the current work session.

Regarding Claims 9 and 17 Latimer et al. does not expressly teach setting

performance goals/targets for each cashier and is silent on the architecture of the

system.

Berkson teaches setting performance goals for each operator as discussed

above and that the operator performance feedback system and method has an multi-

tiered architecture comprising a plurality of operator terminals (front-end, agent

computing device, customer station), back-end subsystems (modules, components,

applications) including but not limited to the performance data collection, evaluation and

reward (motivator) subsystems, network database and a network connecting the various

terminals and subsystems (layers of the system; Figure 1 as shown above; Column 5,

Lines 57-68; Column 6, Lines 1-35), in an analogous art of performance monitoring and

feedback for the purpose of motivating operators to achieve set performance goals.

It would have been obvious to one skilled in the art at the time of the invention

that the system and method for providing performance feedback to cashiers at a point-

of-sale terminal as taught by Latimer et al. would have benefited from setting

performance goals for each cashier as well as utilizing a multi-tiered system architecture

in view of the teachings of Berkson; the resultant system providing cashiers with

feedback regarding the ability to achieve the set performance goals performance

feedback relating to the cashiers achievement of a performance goal thereby

motivating the employee to meet target performance metrics (Berkson: Abstract).

Regarding Claims 10 and 18 Latimer et al. does not teach setting of performance

goals for each cashier and is silent on the architecture of the cashier performance

feedback system and method.

Berkson teaches the setting, measuring and displaying of operator performance

goals for each operator and that the system utilizes a multi-tiered (i.e. network, internet,

etc.) architecture as discussed above.

Nashner teaches that a system administrator (user, "perscriber") creates

individualized performance (training) programs for individual users wherein individual

performance goals (benchmarks, prescribed goals, etc.) are set for each user (subject,

operator, etc.; Column 4, Lines 43-60; Column 5, Lines 40-44; Figure 1) based on the

individual's and/or group's historical performance (Abstract; Column 4, Lines 18-27), in

an analogous art of performance monitoring and feedback for the purpose of

determining the effectiveness of the individual training program (Column 4, Lines 18-

27).

It would have been obvious to one skilled in the art at the time of the invention

that the system and method for providing performance feedback to a cashier at a point-

of-sale terminal as taught by combination of Latimer et al. and Berkson would have

benefited from providing individualized (customer, personalized, unique, etc.)

performance feedback to cashiers by enabling a user (trainer, manager, supervisor,

etc.) set and monitor individual performance goals for each individual cashier in view of

the teachings of Nashner; the resultant system enabling users of the system to

determine the effectiveness of the individual performance (training) efforts (i.e. the

ability of the training program to enable users to reach their performance goals;

Nashner: Column 4, Lines 18-27).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Larson, John, U.S. Patent No. 3,899,775, teaches a system and method for managing and monitoring retail transactions as part of a point-of-sale system. Larson further teaches that such systems "are capable of producing a variety of management reports on items such as inventory, sales rates and checker productivity."

- Collins, Donald, U.S. Patent No. 5,44,226, teaches a system and method for providing real-time scanning performance feedback to a cashier at a point-of-sale terminal.

- Zimmerman, Dennis, Nieman set to expand computer-based training, teaches the utilization of cashier performance feedback systems and methods for providing performance feedback to cashiers at a point-of-sale terminal wherein a plurality of performance metrics are measured and reported/displayed including but not limited to scanning spend and scan rate.

- Closing in on front-end shrink teaches the commercial availability and public use of systems and methods for monitoring the performance of cashiers in a point-of-sale system. The article further teaches the commercial available of a cashier performance monitoring system and method by Trax Software.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott L. Jarrett whose telephone number is (571) 272-7033. The examiner can normally be reached on Monday-Friday, 8:00AM - 5:00PM.
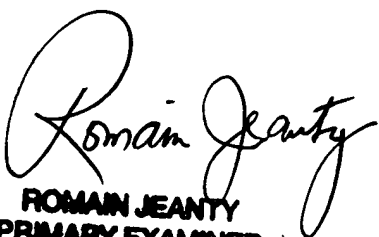
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hafiz Tariq can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

SJ
9/15/2005

ROMAIN JEANTY
PRIMARY EXAMINER
Art Unit 3623